

JACOB S. SMITH, ESQ.
Nevada Bar No. 10231
HENNESS & HAIGHT
8972 Spanish Ridge Avenue
Las Vegas, Nevada 89148
(702) 862-8200
Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ZELLA WATSON,

Plaintiff,

Case No.: 2:19-cv-01110-JAD-BNW

vs.

BED BATH & BEYOND, INC., a foreign
corporation; ROE FLOOR MAINTENANCE
COMPANY; DOES I through X; DOE
EMPLOYEES I through X; and ROE
CORPORATIONS I through X, inclusive,

Defendants.

PLAINTIFF'S MOTION FOR AN ORDER SHORTENING TIME

COMES NOW Plaintiff, ZELLA WATSON, individually, by and through her attorney of record, JACOB S. SMITH, ESQ., of the law firm HENNESS & HAIGHT, and hereby moves for an Order Shortening Time, to shorten the time by which Plaintiff's Motion to Compel [DKT No. 24] will be briefed, and to permit Plaintiff's Motion to Compel and Defendant Bed Bath & Beyond's Motion for Protective Order to be heard together on June 17, 2020.

This Motion is made based on the Points and Authorities submitted herewith, all pleadings and documents on file with the Court, and any oral argument entertained at the hearing of this matter.

///

///

///

DECLARATION OF JACOB S. SMITH, ESQ. PURSUANT TO LR IA 6-1(d)

I, JACOB S. SMITH, ESQ., hereby declare as follows:

1. I am over the age of 18 years and have personal knowledge of the facts stated herein, except for those stated upon information and belief, and as to those, I believe them to be true. I am competent to testify as to the facts stated herein in a court of law and will so testify if called upon.

2. I am an attorney duly licensed to practice law in the State of Nevada. I am a partner at the law firm of Henness & Haight, counsel for Plaintiff in the present matter.

3. On May 11, 2020, Defendant Bed Bath & Beyond, Inc. filed its Motion for Protective Order.

4. Defendant's Motion objects to two topics of a forthcoming 30(b)(6) deposition:

Topic 2: Prior slip and fall incidents in the five (5) years preceding the subject incident on Defendant's premises.

Topic 4: All litigation against Defendant in the five (5) years preceding the subject incident involving allegations of slip and falls on Defendant's premises. This witness must have knowledge of the names of the parties, the names of counsel representing the parties, knowledge of the facts and circumstances and allegations of the prior slip and fall incidents, and the disposition of the prior litigation(s).

5. Concurrent with this Motion for an Order Shortening Time, Plaintiff is also filing a Motion to Compel regarding Plaintiff's First Set of Requests for Production of Defendant BB&B. The following Requests are at issue:

Request No. 17: Produce a copy of all incident reports involving employees and customers – including the incident report pertaining to this specific incident and any others—for 5 years prior to the subject incident to the present.

Request No. 18: Produce any other documentation evidencing all employee and customer injuries, insurance claims and lawsuits – for the 5 years prior to the incident, and since this incident occurred.

6. Both Plaintiff's and Defendant's Motions address substantively the same issues.

7. Defendant BB&B's Motion is set to be heard on June 17, 2020.

1 8. A deposition of Defendant BB&B's 30(b)(6) witness is set to take place on June 22,
2 2020, during which BB&B's prior incidents will be addresses.

3 9. Discovery is scheduled to close on June 23, 2020. As such, this Motion for an Order
4 Shortening Time necessary due to that approaching deadline.

5 10. This Motion is not meant to delay any proceeding within this case and is filed in good
6 faith.

7 I declare under penalty of perjury under laws of the United States of America that the
8 foregoing is true and correct.

9 DATED this 3rd day of June, 2020

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



JACOB S. SMITH, ESQ.

MEMORANDUM OF POINTS AND AUTHORITIES

I.

FACTS AND PROCEDURAL POSTURE

On August 8, 2017, Plaintiff Zella Watson and her husband visited Defendant's Bed Bath & Beyond ("BB&B") store located in Henderson, NV. While shopping for her grandchildren, Mrs. Watson's foot slipped out from under her causing her to tumble to the ground. Mrs. Watson tried, but was unable to catch herself. As she fell, Mrs. Watson's left leg twisting awkwardly behind her and she landed on her outstretched right arm. Unbeknownst to Mrs. Watson, liquid was present on the floor. After the fall, Mrs. Watson noticed her shoes were wet. Mrs. Watson was subsequently rushed by ambulance to the hospital for emergency care.

Mrs. Watson filed her complaint in this matter in the Eighth Judicial District Court of Nevada on June 4, 2019. On June 27, 2019, the case was removed to United States District Court for the District of Nevada. Mrs. Watson filed her first Request for Production of Documents to BB&B on September 4, 2019. BB&B sent its deficient responses on October 14, 2019. After a meet and confer on December 18, 2019, Mrs. Watson filed this Motion to Compel. On May 11, 2020, BB&B filed its Motion for Protective Order. BB&B's Motion is set to be heard on June 17, 2020. The Deposition of BB&B's 30(b)(6) witness is set to take place on June 22, 2020.

II.

DISCUSSION

Pursuant to Local Rule IA 6-1, Plaintiff Zella Watson ("Plaintiff") respectfully applies for an order shortening the time, to shorten the time by which the Motion to Compel [DKT No. 24] will be briefed so both Plaintiff's Motion to Compel and BB&B's Motion for Protective Order may be heard together.

This Court has authority to shorten the time. Rule 6(c) of the Federal Rules of Civil Procedure sets forth the time for hearings on noticed motions "except[] . . . when a court order – which a party may, for good cause, apply for ex parte – sets a different time." Fed. R. Civ. P. 6(c)(1); see also *United States v. Fitch*, 472 F.2d 548, 549 n.5 (9th Cir. 1973) (citing former Rule 6(c) and explaining that this rule "allows the district court discretion to shorten time"). The Local Civil Rules for the U.S. District Court for the District of Nevada recognize this authority, and provide that "motions to shorten time will be granted only upon an attorney or party's declaration describing the circumstances claimed to constitute good cause to justify shortening time." Local R. IA 6-1.

Good cause exists for this application. The proposed Motion to Compel addresses substantively the same issues as BB&B's Motion for Protective Order, which is currently on file. Both Motions address the topic of prior slip and fall incidents, claims, and litigation in the five (5) years preceding the subject incident on BB&B's premises. The only difference between the

two Motions is that the Motion to Compel addresses production of documents as opposed to the FRCP 30(b)(6) witness deposition topics addressed in BB&B's Motion for Protective Order. In short, judicial economy dictates that both of these Motions be heard at the same time.

III.

CONCLUSION

Based on the foregoing, Plaintiff respectfully requests that the Court exercise the authority granted to it by Fed. R. Civ. P. 6(c)(1) and Local Rule IA 6-1 and shorten the time by which the Motion to Compel will be briefed so both Plaintiff's Motion to Compel and BB&B's Motion for Protective Order may be heard together.

DATED this 3rd day of June, 2020.

HENNESS & HAIGHT



JACOB S. SMITH, ESQ.
Nevada Bar No. 10231
8972 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Attorneys for Plaintiff

The Court, in its discretion and to manage its own calendar, ORDERS that any response to ECF No. 24 is due by June 10, 2020 and any reply is due by June 12, 2020.

IT IS FURTHER ORDERED that a hearing on ECF No. 24 is set for June 17, 2020 at 1:00 p.m.

IT IS FURTHER ORDERED that ECF No. 25 is DENIED as moot.

IT IS SO ORDERED

DATED: June 05, 2020



BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3rd day of June, 2020, the undersigned served the foregoing **PLAINTIFF'S MOTION FOR AN ORDER SHORTENING TIME** on the following counsel of record herein by causing a true copy thereof to be filed with the Clerk of Court using the CM/ECF system, which was served via electronic transmission by the Clerk of Court pursuant to local order and/or by United States Mail:

Michael Lowry, Esq.
Jonathan C. Pattillo, Esq.
WILSON ELSEER MOSKOWITZ
EDELMAN & DICKER
300 South 4th Street, 11th Floor
Las Vegas, Nevada 89101-6014
Attorneys for Defendant

/s/ Kelley Huff
An Employee of
HENNESS & HAIGHT